

HOUSE BILL No. 1769

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-20-5; IC 5-20-6.

Synopsis: Housing preservation and substance removal. Provides that before the owner of a federally insured or assisted housing development sells the development, converts the development into condominiums, or takes certain other actions that would result in termination of federal assistance to the development, certain preferred purchasers must be given an opportunity to purchase the property and maintain the property as a federally assisted development. Provides that the preferred purchasers are the tenant association of the development, the Indiana housing finance authority, the housing authority for the municipality in which the development is located, and the municipality in which the development is located. Requires the Indiana housing
(Continued next page)

Effective: July 1, 1999.

Crawford

January 26, 1999, read first time and referred to Committee on Ways and Means.



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finance authority to implement the statutes preserving federally insured or assisted housing developments. Allows the Indiana housing finance authority to provide financial assistance in the form of grants, loans, or a combination of grants and loans to individuals and developers for the abatement of asbestos, asbestos containing materials, and lead-based paint from residential dwelling units. Appropriates \$1,000,000 per year for the biennium beginning July 1, 1999, to implement the provisions concerning providing financial assistance for abatement of asbestos, asbestos containing materials, and lead-based paint from residential dwelling units.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1769

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-20-5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]:

4 **Chapter 5. Preservation of Federally Insured or Assisted**
5 **Housing**

6 **Sec. 1. This chapter does not apply to a development whose**
7 **owner gave notice of the termination of housing assistance**
8 **payment contracts for the development:**

9 (1) before July 1, 1999; and
10 (2) to the United States Department of Housing and Urban
11 Development under Section 8(c) of the United States Housing
12 Act of 1937 (42 U.S.C. 1437f(c)).

13 **Sec. 2. As used in this chapter, "authority" refers to the Indiana**
14 **housing finance authority established by IC 5-20-1-3.**

15 **Sec. 3. (a) As used in this chapter, "development" means any**



1 structure or group of structures located in Indiana that is federally
2 insured or assisted.

3 (b) The term does not include a structure that is not federally
4 insured or assisted, even if the structure may be commonly owned
5 with rental units that receive federal assistance or have federal
6 assistance sent to rental units.

7 Sec. 4. For purposes of this chapter, a rental unit is federally
8 insured or assisted if the unit is:

9 (1) a low income housing unit insured or assisted under
10 Sections 221(d)(3) and 236 of the National Housing Act (12
11 U.S.C. 1715l and 12 U.S.C. 1715z-1, respectively);

12 (2) a low income housing unit produced with assistance under
13 Section 8 of the United States Housing Act of 1937 (42 U.S.C.
14 1437f); or

15 (3) rural low income housing financed under Section 515 of
16 the Housing Act of 1949 (12 U.S.C. 1715z).

17 Sec. 5. As used in this chapter, "municipality" has the meaning
18 set forth in IC 36-1-2-11.

19 Sec. 6. As used in this chapter, "owner" means an association,
20 a corporation, an individual, a joint venture, a partnership, or any
21 business entity that holds title to a development.

22 Sec. 7. As used in this chapter, with respect to a development,
23 "preferred purchaser" means any of the following:

24 (1) The tenant association of the development.

25 (2) The authority.

26 (3) The housing authority of the municipality in which the
27 development is located.

28 (4) The municipality in which the development is located.

29 Sec. 8. (a) As used in this chapter, "rental unit" means the part
30 of a development that is rented or offered for rent for residential
31 occupancy.

32 (b) The term includes land and related facilities currently
33 dedicated to the part of a development that is rented or offered for
34 rent for residential occupancy.

35 (c) The term does not include land that may be dedicated to the
36 part of a development that is under common ownership with parts
37 of the development that are not federally insured or assisted, even
38 if the land is dedicated to federally insured or assisted rental units.

39 Sec. 9. As used in this chapter, "tenant" includes a lessee,
40 sublessee, subtenant, or other person entitled to:

41 (1) possession;

42 (2) occupancy; or



(3) receipt of the benefits;
of a rental unit.

Sec. 10. As used in this chapter, "tenant association" means an organization that represents at least a majority of the tenants in a development. For purposes of determining whether an organization represents a majority of the tenants in a development, tenants who:

(1) have not resided in the development for at least ninety (90) days; or

(2) have been employed by the owner during the preceding one hundred twenty (120) days;
are not included in the membership of the organization or in the total number of tenants in the development.

Sec. 11. As used in this chapter, a development is "transferred" if the owner:

(1) sells, leases, otherwise disposes of, or prepays any obligation secured by the development in a manner that would result in:

(A) discontinuance of the use of the development as a federally insured or assisted development; or

(B) termination of any use restrictions that apply to the development; or

(2) records a declaration of condominium with respect to any part of the development.

Sec. 12. As used in this chapter, "use restrictions" means a federal, state, or local law or contract that as a condition of receipt of housing assistance, including a rental subsidy, mortgage subsidy, or mortgage insurance, by a development:

(1) establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the rental units within a development;

(2) imposes restrictions on the maximum rents that can be charged for any of the rental units within a development; or

(3) requires that rents for any of the rental units within a development be reviewed by a governmental body before the rents may be implemented.

Sec. 13. (a) As used in this section, "contract" refers to a contract under which rental assistance payments are received under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) As used in this section, "termination" means the expiration of a contract or an owner's refusal to renew a contract.



(c) At least two (2) years before termination of a contract, the owner shall provide written notice to the authority, stating:

- (1) the reasons for the termination; and
- (2) other information required by the authority.

(d) Not more than twenty-four (24) hours after providing the authority with the notice required by this section, the owner shall:

- (1) send a copy of the notice by certified mail, return receipt requested, to the tenant association of the development; and
- (2) post a copy of the notice in a conspicuous place in common areas of the development.

(e) The authority shall:

- (1) review the owner's notice; and
- (2) determine whether:
 - (A) the termination is lawful; and
 - (B) there are additional actions that can be taken by the authority to avoid the termination.

(f) Not more than thirty (30) days after the owner's notice, the authority shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination.

Sec. 14. If:

- (1) an owner terminates a contract under section 13 of this chapter;
 - (2) the owner seeks to convert the development or a part of the development into a condominium; and
 - (3) a preferred purchaser does not exercise the opportunity to purchase the development under this chapter;
- the tenant has all rights under Indiana law that a person leasing property has when the owner of the property converts the property to a condominium in addition to the rights a tenant has under this chapter.

Sec. 15. (a) At least two (2) years before transferring a development, the owner shall provide written notice of the transfer to:

- (1) each tenant of the development;
- (2) each preferred purchaser of the development; and
- (3) the legislative body of the municipality in which the development is located.

(b) A copy of a notice required by this section must be recorded in the county in which the development is located at least two (2) years before the development is transferred.

(c) A transfer of a development is invalid unless the notices



required by this section have been provided and recorded.

(d) The declaration of condominium of a development that is otherwise valid is not invalid under this section if:

- (1) the declaration is consummated not more than two (2) years after notice;
- (2) the owner records in the county in which the development is located an agreement to maintain existing use restrictions with regard to those rental units that are federally insured or assisted for the duration of the two (2) year notice period; and
- (3) the owner provides the authority with a copy of the condominium agreement.

Sec. 16. (a) An owner may not transfer a development before the owner provides each preferred purchaser an opportunity to purchase the development at a price and on terms that represent a good faith offer to sell in compliance with section 17 of this chapter.

(b) The priority of the right of preferred purchasers to purchase a development under this section is established by the order of the listing of the types of preferred purchasers in section 7 of this chapter.

Sec. 17. (a) Before an owner of an existing development or of a development that was federally insured or assisted within the preceding two (2) years may transfer the development to a person other than a preferred purchaser, the owner must provide to each preferred purchaser a written copy of a good faith offer to sell the development to the preferred purchaser.

(b) An offer to sell required by this section must be sent by certified mail, return receipt requested.

(c) The owner shall also post a copy of the offer of sale in a conspicuous place in common areas of the development.

Sec. 18. An offer of sale made under section 17 of this chapter must contain at least the following information:

- (1) The essential terms of the sale, which must include the following:
 - (A) The sale price.
 - (B) The terms of seller financing, if any, including the:
 - (i) amount;
 - (ii) interest rate; and
 - (iii) amortization rate.
 - (C) The terms of assumable financing, if any, including the:
 - (i) amount;



(ii) interest rate; and

(iii) amortization rate.

(D) Proposed improvements to the property to be made by the owner in connection with the sale.

(E) Other economic concessions by the owner in connection with the sale, if any.

(2) A statement that each preferred purchaser has the right to purchase the development under this chapter in the order established by section 16(b) of this chapter.

(3) A summary of tenants' rights and sources of technical assistance as contained in a form prescribed by the authority. If the authority has not prescribed a form, the owner complies with this subdivision if the statement cites this chapter.

(4) A statement that the owner will make available to each preferred purchaser the following information:

(A) A floor plan of the development.

(B) An itemized list of:

(i) monthly operating expenses;

(ii) utility consumption rates; and

(iii) capital expenditures.

(C) The most recent rent roll.

(D) A list of tenants.

(E) A list of vacant rental units.

(F) A statement of the vacancy rate at the development.

The information required by clauses (B) through (F) must be provided for each of the two (2) preceding calendar years. The information listed in this subdivision must be provided not more than seven (7) days after the owner receives a request for the information from a preferred purchaser.

Sec. 19. (a) If a person other than a preferred purchaser makes an offer to the owner of a development to transfer the development, the owner of the development shall, before accepting the offer of that person, provide to each preferred purchaser by certified mail, return receipt requested, the following information:

(1) A written notice of the pendency and essential terms of the offer.

(2) A good faith offer to sell the development to the preferred purchaser upon the same terms and conditions as the offer received by the owner.

(b) An offer of sale under this section made to preferred purchasers must contain at least all of the information required of an offer of sale made under section 18 of this chapter.



(c) The right of a preferred purchaser to purchase a development under this section does not allow a preferred purchaser to vary the terms of an offer made to an owner or to make a counteroffer to the owner.

Sec. 20. A preferred purchaser:

(1) has a right to accept a good faith offer made under section 16 or 18 of this chapter not more than sixty (60) days after receipt of the offer; and

(2) has at least one hundred twenty (120) days from the preferred purchaser's acceptance of the offer to secure financing for the purchase.

Sec. 21. The right of a preferred purchaser to purchase a development before other purchasers does not apply to the following:

(1) A taking of the development by eminent domain or negotiated purchase by a governmental entity.

(2) A forced sale under a foreclosure.

(3) A transfer by gift, devise, operation of law, or sale to a person who would take from the owner by intestate succession.

Sec. 22. A person to whom notice is required to be given under this chapter may waive the person's rights under this chapter at any time by a written waiver signed by an authorized representative of the person.

Sec. 23. For purposes of this chapter, termination or expiration of a use restriction or an assistance contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437) does not include a termination or an expiration that is immediately succeeded, without lapse, by an agreement or a contract that embodies terms that are as favorable to the tenants residing in the federally insured or assisted rental units as the prior agreement or contract.

Sec. 24. (a) The authority may adopt rules under IC 4-22-2 to implement this chapter.

(b) The authority shall adopt rules under IC 4-22-2 to specify procedural safeguards to assure that preferred purchasers, in the order established by section 16(b) of this chapter, are given a fair and reasonable opportunity to exercise the rights granted under this chapter.

Sec. 25. The authority shall publish and update the following information:

(1) A summary of the rights and obligations under this



chapter.

(2) Sources of technical assistance, including the following information:

(A) Counseling.

(B) Subsidy programs.

(C) Relocation services.

(D) Housing purchase and rehabilitation financing.

(E) Formation of tenant organizations.

(F) Purchase of developments.

(G) Conversion of developments to cooperative ownership.

SECTION 2. IC 5-20-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 6. Assistance for the Abatement of Lead-Based Paint, Asbestos, and Asbestos Containing Material

Sec. 1. As used in this chapter, "asbestos" has the meaning set forth in IC 13-11-2-10.

Sec. 2. As used in this chapter, "asbestos containing material" has the meaning set forth in IC 13-11-2-11.

Sec. 3. As used in this chapter, "authority" means the Indiana housing finance authority created under IC 5-20-1-3.

Sec. 4. As used in this chapter, "developer" means the following:

(1) A nonprofit developer of low and moderate income housing.

(2) A mutual housing association.

(3) A housing authority.

Sec. 5. As used in this chapter, "eligible applicant" means a developer or person approved by the authority to receive financial assistance under this chapter.

Sec. 6. As used in this chapter, "person" means an individual or a family.

Sec. 7. As used in this chapter, "persons and families of low and moderate income" has the meaning set forth in IC 5-20-1-2.

Sec. 8. A person or developer may apply for financial assistance by submitting an application to the authority.

Sec. 9. The authority may enter into a contract with an eligible applicant for financial assistance in the form of a:

(1) grant;

(2) loan; or

(3) combination of grant and loan;

for technical assistance for the abatement of lead-based paint, asbestos, and asbestos containing material from a residential



dwelling unit.

Sec. 10. A grant or loan may not exceed two-thirds (2/3) of the cost of the abatement, including expenses incurred in obtaining technical assistance for the abatement.

Sec. 11. (a) The authority shall establish written policies and procedures to implement this chapter, including the following:

(1) The development of an application process for requesting financial assistance.

(2) The establishment of a procedure for disbursing financial assistance.

(3) The establishment of procedures to ensure repayment of the loan principal at the end of the loan term.

(4) The establishment of a rate of interest for a loan.

(5) The development of eligibility requirements for financial assistance.

(b) In determining eligibility requirements under subsection (a)(5), the authority shall consider establishing priorities for persons and families of low and moderate income having a child suffering from lead-paint poisoning.

SECTION 3. [EFFECTIVE JULY 1, 1999] (a) There is appropriated to the Indiana housing finance authority created under IC 5-20-1-3:

(1) One million dollars (\$1,000,000) beginning July 1, 1999, and ending June 30, 2000; and

(2) One million dollars (\$1,000,000) beginning July 1, 2000, and ending June 30, 2001;

to implement IC 5-20-6, as added by this act.

(b) This section expires July 1, 2001.

SECTION 4. [EFFECTIVE JULY 1, 1999] (a) As used in this SECTION, "authority" refers to the Indiana housing finance authority established under IC 5-20-1-3.

(b) Before January 1, 2000, the authority shall publish the information required to be published under IC 5-20-5-25, as added by this act.

(c) This SECTION expires July 1, 2000.

